

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MISSOURI
EASTERN DIVISION

TODD WALTON,

Plaintiff,

vs.

GRACO INC.,

Defendant.

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Case No. 4:23-cv-01232-JSD

JOINT PROPOSED SCHEDULING PLAN

Plaintiff Todd Walton and Defendant Graco Inc., by and through counsel, submit the following Joint Proposed Scheduling Plan:

1. After conferring, the parties believe the case is appropriately assigned to **Track 3**. Plaintiff alleges that he lost part of his hand as a result of an alleged product defect with a paint sprayer manufactured by Graco. Medical and engineering experts will be needed. The parties believe it will take several months to collect the relevant records, several months to retain experts and then sufficient time will be needed to be ready to proceed with fact and expert witness depositions. As such, the following proposed Scheduling Plan contemplates an assignment to **Track 3**.
2. The deadline for joining parties and/or amending pleadings shall be **June 15, 2024**.
3. The parties submit the following discovery plan:
 - a) At this time the parties do not anticipate any additional limitations on discovery or changes to the limitations on discovery that should be made. The parties agree to produce ESI as searchable PDF files or in hard copy format, provided, however, that original condition native file formats shall be retained and subject to discovery consistent with applicable law regarding the same. The parties agree that their counsel will cooperate to agree upon other acceptable electronic formats of production, in the event

it becomes necessary. The parties agree that, pursuant to Federal Rule 16(b)(5)(B) and Federal Rule of Evidence 502(d), there need not be a special mechanism in place for reclaiming inadvertently produced documents at this time, but such an agreement may be requested in the future.

- b) The parties will disclose information and exchange documents pursuant to Rule 26(a)(1), Fed. R. Civ. P., on or before **January 5, 2024**.
 - c) Discovery should not be conducted in phases or limited to certain issues.
 - d) Plaintiff shall disclose his retained and non-retained expert witnesses and shall provide the reports required by Rule 26(a)(2), Fed. R. Civ. P., no later than **July 15, 2024** and shall make said expert witnesses available for depositions, and have depositions completed, no later than **September 2 2024**.
 - e) Defendants shall disclose their retained and non-retained expert witnesses and shall provide reports required by Rule 26(a)(2), Fed. R. Civ. P., no later than **October 13, 2024**, and shall make said expert witnesses available for depositions, and have depositions completed, no later than **December 1, 2024**.
 - f) The presumptive limit of ten depositions per side as set forth in Rule 30(a)(2)(A), Fed. R. Civ. P., and 25 interrogatories per party as set forth in Rule 33(a), Fed. R. Civ. P., should apply in this case, unless otherwise agreed to by counsel or by leave of Court.
 - g) Defendants may request that Plaintiff undergo a physical or mental examination pursuant to Rule 35, Fed. R. Civ. P., and, if so, the request will be made by **October 15, 2024**, and the exam will be conducted by **November 15, 2024**.
 - h) All discovery will be completed by **December 15, 2024**.
 - i) All discovery motions to be filed by **December 15, 2024**.
4. The parties do not believe referral to mediation or early neutral evaluation would be productive.
5. Any motions to dismiss, motions for summary judgment, motions for judgment on the pleadings, or motions to exclude testimony pursuant to *Daubert v. Merrell Dow Pharmaceuticals, Inc.*, 509 U.S. 579 (1993) or *Kuhmo Tire Co. v. Carmichael*, 526 U.S. 137 (1999) must be filed no later than **December 18, 2025**.
6. The trial of this case is estimated to last approximately five days.
7. The parties suggest a trial date in **June 2025**.
8. The parties do not deem any other matters appropriate for inclusion in the Joint Proposed Scheduling Plan at this time.

Dated this 8th day of December, 2023.

Respectfully submitted,

/s/ Joseph A. Ott (with consent)

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CERTIFICATE OF SERVICE

I hereby certify that, on December 8, 2023, the foregoing was filed with the Clerk of Court using the CM/ECF electronic filing system and was served by operation of the same on the counsel of record for all parties in this action.

/s/ Kevin L. Fritz